

# Contesting Disagreed Audits

Glenn Hegar, Texas Comptroller of Public Accounts

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*At the Comptroller's office we want to be fair and give taxpayers full consideration in every case. This brochure explains how to exercise your rights as a taxpayer if you disagree with the results of your audit.*

For more information, visit our website  
[Comptroller.Texas.Gov](http://Comptroller.Texas.Gov).

At the Comptroller's office we want to be fair and give taxpayers full consideration in every case. This brochure explains how to exercise your rights as a taxpayer if you disagree with the results of your audit.

After the exit conference, but before a *Notification of Audit Results* is produced, disputed issues can be reviewed with the audit manager or supervisor in a reconciliation conference. If this is not adequate, or if issues still remain after a reconciliation conference, an independent audit review conference can be held.

## Independent Audit Review Conference

**Q** What is an Independent Audit Review Conference (IARC)?

**A** The IARC allows taxpayers to meet with a third party that has not been involved in the audit or refund verification process. The IARC is an informal meeting between a taxpayer, auditor, and an Independent Audit Reviewer (IAR). The IAR will conduct the meeting by asking questions of both the taxpayer and auditor to gather information. Matters that can be addressed in the conference

include taxability issues, sampling issues, accounting disputes and waiver of penalty and interest.

**Q** What is the purpose of the Independent Audit Review Conference?

**A** IARCs allow taxpayers to address disputes closer to, and even at, their places of business. Taxpayers will avoid the expenses associated with preparing for and attending proceedings in the formal

administrative hearing process and state court system, both located in Austin. In addition, IARCs may reduce the expenses of the Comptroller's office, benefiting all Texas taxpayers.

**Q** Who are the Independent Audit Reviewers (IARs)?

**A** IARs are Comptroller employees who report directly to the assistant director of Tax Administration. Each IAR is very knowledgeable about audit and taxability issues, but is not an employee of the Audit Division and does not work at any Comptroller office that conducts audits.



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*While the field work is being conducted during an audit or refund verification, we strongly encourage you to meet with the auditor and the auditor's supervisor or manager to discuss and resolve any issues that arise.*

**Q** When and how do I request an Independent Audit Review Conference?

**A** While the field work is being conducted during an audit or refund verification, we strongly encourage you to meet with the auditor and the auditor's supervisor or manager to discuss and resolve any issues that arise. However, if disputed items still remain after the field work is completed, let the auditor know the issues that you disagree with and request an IARC during the exit conference. The auditor will notify his/her supervisor and/or manager and they will contact the IAR to set up an appointment at a mutually acceptable date and location for the meeting. The IARC will not occur until after your exit conference.

**Q** Are there any situations where an Independent Audit Review Conference (IARC) is not available?

**A** Yes. These are:

1. When no records are provided to verify a refund request or to verify a previously paid refund;
2. When no records are provided to perform the audit, and the audit liability must be estimated, even if the dispute concerns how the estimate is calculated;
3. When a taxpayer has received a written taxability determination from the

Tax Policy Division on the issue(s) in dispute; and

4. When an IARC has already taken place and a decision was rendered.

**Q** Is there any charge for an Independent Audit Review Conference (IARC)?

**A** No.

**Q** Does having an Independent Audit Review Conference (IARC) stop interest from accruing on amounts that are not in dispute or that I may still owe after the conference is over?

**A** No. Interest will continue to accrue on all proposed assessments. Therefore, you may want to make payment on any part of the assessment that you agree with to stop interest from accruing on that amount.

**Q** How do I prepare for an Independent Audit Review Conference (IARC)?

**A** This is *your meeting* to discuss the disputed issues. Arrive at the IARC fully prepared to support your position by bringing records, contracts and any other relevant documentation. We also recommend that you deliver a written statement of your position to the IAR. You may bring an attorney, accountant or other persons with you to help explain your position.



For more information,  
visit our website  
[Comptroller.Texas.Gov](http://Comptroller.Texas.Gov).



**Q** What happens after the conference is over?

**A** The IAR will submit a written report to the assistant director of Tax Administration with recommendations of how to resolve the disputed items. The Tax Policy Division will review all IAR recommendations concerning taxability issues to make sure they are consistent with applicable law and agency policy. The IAR will then notify you of the agency's decision. You may request a copy of the IAR report.

**Q** Does participation in an Independent Audit Review Conference (IARC) eliminate my right to

seek review of any disputed items in the formal administrative hearing process?

**A** No. You may still request a redetermination or refund hearing. Information on the redetermination or refund hearing is listed under Taxpayer Options.

### Notification of Audit Results

**Q** I received a *Notification of Audit Results*. What is it?

**A** The *Texas Notification of Audit Results* is the Comptroller's official determination of the results of your audit. A *Notification* is issued for each tax or fee that was audited regardless of the outcome of the audit.

*The IAR will submit a written report to the assistant director of Tax Administration with recommendations of how to resolve the disputed items.*

## Texas Taxpayer “Bill of Rights”

As a Texas taxpayer, you have a right to expect:

- Fair and courteous treatment from all our employees.
- Tax forms and information written in plain language.
- Prompt and accurate responses to all questions and requests for tax assistance.
- Ready access to public records.
- Strict confidentiality for the financial information you give to us.
- Tax notices that provide a clear explanation of the amount being billed.
- A clear set of rules and procedures to resolve tax problems that arise from the interpretation and administration of our tax laws.
- A fair and timely hearing on a dispute of any liability.
- That our employees are not paid or promoted as a result of money billed or collected from taxpayers.
- That we'll listen with an open mind to your suggestions about how we can better serve you.

For more information,  
visit our website  
**Comptroller.Texas.Gov.**

## Contesting Disagreed Audits

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**Q** I have open balances for return periods within the audit period. Are those balances included in the *Notification*?

**A** No. The *Notification* balance will only reflect the results of the audit. Open balances from return periods will not be included in the audit results; and any ongoing collection action will not be affected by an audit.

**Q** I paid my deficiency before my audit was final. Will I receive a *Texas Notification of Audit Results*?

**A** Yes. A *Notification* will be issued that reflects the audit balance as of the date of the *Notification* (if the liability is paid in full, including penalty and interest, then the balance will show zero).

### Penalty and Interest

**Q** How are penalty and interest determined?

**A** *Penalty*  
Taxes and fees assessed in an audit are subject to a penalty of 10 percent of the amount due. An additional 10 percent is imposed if you do not pay on or before the date indicated on the *Texas Notification of Audit Results*.

### *Interest*

*Reports due before January 1, 2000:*  
Interest accrues at 12 percent per annum on additional taxes and fees. There is no

provision in the law for payment of credit interest.

*Reports due after December 31, 1999:* The interest rate is subject to change every January 1, based on the prime rate, as published in the *Wall Street Journal*, plus one percent. This is the rate that is assessed on any additional tax or fee liabilities, and effective January 1, 2000, this was also the rate of credit interest paid on any tax or fee overpayments.

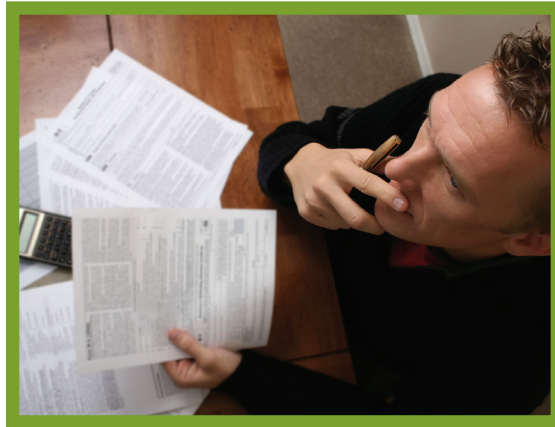
*Credits and refunds claimed after August 31, 2005:* The rate of credit interest paid

on overpaid taxes and fees changed effective September 1, 2005, to the lower of the prime rate, as published in the *Wall Street Journal*, plus one percent; or the annual rate of interest earned on deposits in the state treasury during December of the previous

calendar year. The interest rate assessed on any additional liabilities did not change and is still at the prime rate plus one percent.

**Q** How can I request a penalty or interest waiver?

**A** There is no need to request a waiver of penalty or interest. When we conduct audit examinations, we presume taxpayers have requested waiver of penalty and interest. You will be notified of our decision on the waiver in the letter sent



to you with the audit package. Penalty waivers are usually limited to periods originally filed in a timely manner. If you disagree with our decision, you may request a redetermination hearing.

### Taxpayer Options

After receiving the *Notification*, you have two options available:

1. **If you agree** with the audit results, send a check or money order payable to the State Comptroller for the total liability as calculated on the *Notification*, plus any additional interest that has accrued from the date of the *Notification*. A determination becomes final 30 days after this date (20 days for a jeopardy determination), and full payment is due 40 days after this date. A 10 percent late payment penalty becomes due 40 days after the *Notification* date (20 days for a jeopardy determination). Interest continues to accrue on the tax/fee until paid or refunded.
2. **If you do not agree** with the audit results, you can request a redetermination hearing by sending a letter with a statement of grounds. All tax and fee audits are subject to the hearings process despite the final results. Your statement of grounds must be postmarked on or before the due date indicated on the *Notification*. If you choose this method, you are not

required to pay the assessment at that time, but if you do not pay, interest continues to accrue on the amount of tax/fee ultimately determined to be owed the state. If you miss the deadline to file for a redetermination hearing, then the entire liability must be paid before a refund hearing can be granted.

### Statute of Limitations

All periods in an audit are open for refund for the same tax type audited until the deadline to file for a redetermination hearing. **If you miss the deadline to file for a redetermination hearing, the entire**

**audit liability, including any penalties and interest assessed, must be paid in full before a refund hearing can be granted.**

Hearing requests made after the deadline to file for a redetermination hearing, but within 6 months after the audit

became final, can include requests for refunds of all tax actually assessed and paid in the audit, plus refunds for any periods that are still within the four-year statute of limitations at the time the refund hearing request is filed. Refund claims filed after this six-month interval can only include periods that fall within the four-year statute of limitations. If your hearing request includes any claims for new refunds not previously reviewed by the auditor, please refer to [Comptroller.Texas.Gov](http://Comptroller.Texas.Gov) for new refund claim requirements.



*All tax and fee audits are subject to the hearings process despite the final results.*

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## Contesting Disagreed Audits

*If you disagree with the results of an audit, your statement of grounds must list the items in the audit with which you disagree, either individually or by category, and why you disagree. If you disagree with the agency's interpretation of the law, you must cite legal authority for your position.*

### Statement of Grounds

If you disagree with the results of an audit, your statement of grounds must list the items in the audit with which you disagree, either individually or by category, and why you disagree. If you disagree with the agency's interpretation of the law, you must cite legal authority for your position. The statement of grounds must be signed by you or your representative. A power of attorney, or other written authorization, must be included with all requests from third parties.

Your statement of grounds should be sent to:

**Glenn Hegar**

**Texas Comptroller of Public Accounts  
Austin, Texas 78774-0100**

**Q** What happens after I send in my statement of grounds?

**A** If the request was timely and complete, a letter will be sent acknowledging the receipt of the request

and providing further instructions. If the request was not timely or was incomplete, a letter will be sent explaining what your next options are and where your request was deficient.

**Q** What happens after the auditor reviews my additional documentation and statement of grounds?

**A** If the auditor agrees with all of your contentions, the audit will be amended and no hearing will be held. If other issues remain, your case will be assigned to a hearings attorney who will contact you or your representative to try to resolve the case. The hearings attorney will review your case and prepare a Position Letter or Agreed Motion to Dismiss. This will explain the position being taken in your case by the Tax Administration Division. If you are sent a Position Letter, you can accept the position stated in the letter or you can ask to have your case heard by an Administrative Law Judge (ALJ) at the State Office of Administrative

### Additional Information

The Rules of Practice and Procedure (publication #96-145) explain in detail the administrative appeals system for taxpayers who disagree with audit assessments or tax law interpretations. You may obtain a copy of the rules from any of our field offices or by calling our toll-free hotline. This publication is also available online at [comptroller.texas.gov/taxinfo/taxpubs/tx96\\_145.pdf](http://comptroller.texas.gov/taxinfo/taxpubs/tx96_145.pdf).

A limited power of attorney form is available online at [comptroller.texas.gov/taxinfo/taxforms/86-113.pdf](http://comptroller.texas.gov/taxinfo/taxforms/86-113.pdf)

The Comptroller's office also publishes many brochures and booklets that detail Texas tax laws and how to comply with them.

You can request copies of these publications and get answers to questions on specific state taxes by calling one of the toll-free numbers listed on the back of this publication. The local Austin number is 512-463-4600.

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Hearings (SOAH). If you receive an Agreed Motion, we will assume you agree unless you tell us otherwise.

### Comptroller's Decision

**Q** What happens if I ask to have my case heard by the State Office of Administrative Hearings?

**A** If you are unable to resolve your case with the Tax Administration Division, you may request to have your case decided by an Administrative Law Judge (ALJ) at SOAH. You have two options: If you want an oral hearing, you will receive a notice indicating the date and time you are to appear to present evidence and argument. If you want your case considered on the basis of written submissions, the ALJ will review your written evidence and argument. After the oral hearing or review of the written materials, the ALJ will propose a decision to you and to the Tax Administration Division. The Comptroller will render the final decision. If you plan to challenge the decision in court by filing a refund or protest suit, you should consider consulting immediately with a private attorney who can advise you on how to preserve your rights. Also Comptroller letters, position letters and hearing decisions on various topics are available online at [Comptroller.Texas.Gov](http://Comptroller.Texas.Gov).

### Comptroller's Authority

*Freezing Assets:* The Comptroller may freeze a taxpayer's assets, including bank accounts, for delinquent taxes without notifying the taxpayer before the assets are frozen.

*Seizure and Sale of Assets:* The Comptroller has authority to seize and sell the non-exempt real and personal property of a delinquent taxpayer. This may be done if other collection efforts fail.

*Corporate Forfeiture:* The Comptroller has authority to forfeit a corporation's corporate privileges in Texas for failure to file required franchise tax reports or for failure to pay the taxes due. Forfeiture of the corporation's corporate privileges could expose the corporate officers or directors to personal liability for all debts, including taxes.



If you have any other questions about this process, please call the Comptroller's office at 1-800-531-5441 or visit [comptroller.texas.gov/taxhelp/](http://comptroller.texas.gov/taxhelp/).

*You may request to have your case decided by an Administrative Law Judge (ALJ) at SOAH.*

For more information, visit our website [Comptroller.Texas.Gov](http://Comptroller.Texas.Gov).

## 23 Comptroller Audit offices in 19 cities provide convenient, courteous tax help near you...

### **Abilene**

209 S. Danville Drive, Suite C222  
79605-1464  
325-695-4323

### **Amarillo**

Park West Office Centre, Building A  
7120 I-40 West, Suite 240 79106-2500  
806-358-0148

### **Austin**

1711 San Jacinto, Suite 410  
Central Services Building 78701-3003  
512-305-9800

### **Austin-Business Activity Research Team**

1700 North Congress, Suite 300  
Stephen F. Austin Building 78701-1436  
512-305-9899

### **Beaumont**

6442 Concord  
77708-4315  
409-899-4650

### **Chicago**

2809 Butterfield Road, Suite 340  
Oak Brook, IL 60523-1196  
630-574-5120

### **Corpus Christi**

400 Mann Street, Suite 608  
78401  
361-882-1234

### **Dallas East**

9221 LBJ Freeway, Suite 200  
75243-3455  
972-792-5800

### **Dallas West**

2655 Villa Creek Drive, Suite 270  
75234-7316  
972-888-5300

### **El Paso**

401 East Franklin Avenue, Suite 170  
79901  
915-533-0506

### **Fort Worth**

6320 Southwest Boulevard, Suite 201  
Crosslands Plaza 76109  
817-377-8855

### **Houston North**

1919 North Loop West, Suite 311  
77008-1394  
713-426-8200

### **Houston South**

2656 South Loop West, Suite 400  
77054-2600  
713-314-5700

### **Houston West**

1260 Pin Oak Road, Suite 210  
Katy, TX 77494-5600  
281-371-5500

### **Los Angeles**

17777 Center Court Drive N., Suite 700  
Cerritos, CA 90703-9356  
562-402-2000

### **Lubbock**

6202 Iola Avenue, Suite 900B  
79424-2733  
806-783-0316

### **McAllen**

200 South 10th Street, Suite 801  
78501  
956-687-9227

### **New York**

215 Lexington Avenue, 19th Floor  
New York, NY 10016  
646-742-1155

### **Odessa**

4682 East University, Suite 200  
79762-8104  
432-550-3027

### **San Antonio**

6875 Bandera Road  
78238-1359  
210-257-4600

### **Tulsa**

7050 South Yale Avenue, Suite 101  
Tulsa, OK 74136-7050  
918-622-4311

### **Tyler**

3800 Paluxy Drive, Suite 300  
75703-1661  
903-534-0333

### **Waco**

801 Austin Avenue, Suite 940  
76701-1941  
254-752-3147

## We're Here To Help! *Call Toll-Free!*

If you have questions or need information on a specific tax, please call our toll-free numbers:

### **1-800-252-5555**

911 Emergency Service/  
Equalization Surcharge  
Automotive Oil Fee  
Battery Fee  
Boat and Boat Motor  
Sales Tax  
Customs Broker  
Fireworks Tax  
Mixed Beverage Tax  
Off-Road, Heavy-Duty Diesel  
Equipment Surcharge  
Oyster Fee  
Sales and Use Taxes

### **1-800-531-5441**

Cement Tax  
Inheritance Tax  
Local Revenue  
Miscellaneous Gross Receipts  
Taxes  
Oil Well Servicing Tax  
Sulphur Tax

### **1-800-442-3453**

WebFile Help

### **1-800-252-1381**

Bank Franchise  
Franchise Tax

### **1-800-252-7875**

Spanish

### **1-800-531-1441**

Fax on Demand (Most frequently  
requested Sales and Franchise  
tax forms)

### **1-800-252-1382**

Manufactured Housing Tax  
Motor Vehicle Sales Surcharge,  
Rental and Seller Financed  
Sales Tax  
Motor Vehicle Registration  
Surcharge

### **1-800-252-1383**

Fuels Tax  
IFTA  
LG Decals  
Petroleum Products Delivery Fee  
School Fund Benefit Fee

### **1-800-252-1384**

Coastal Protection Fee  
Crude Oil Production Tax  
Natural Gas Production Tax

### **1-800-252-1387**

Insurance Tax

### **1-800-252-1385**

Coin-Operated Machines Tax  
Hotel Occupancy Tax

### **1-800-252-1386**

Certificates of Account Status/Good  
Standing  
Officer and Director Information

### **1-800-862-2260**

Cigarette, Cigar and/or Tobacco  
Products

### **1-888-4-FILING (1-888-434-5464)**

TELEFILE: To File by Phone

### **1-800-252-1389**

GETPUB: To Order Forms and  
Publications

### **1-800-654-FIND (1-800-654-3463)**

Unclaimed Property Name Searches  
512-463-3120 in Austin

### **1-800-321-2274**

Unclaimed Property Claimants  
Unclaimed Property Holders

### **1-877-44RATE4 (1-877-447-2834)**

Interest Rate

### **Texas Comptroller of Public Accounts Publication #96-1253 Revised February 2015**

For additional copies write:

Texas Comptroller of Public Accounts  
111 East 17th Street  
Austin, Texas 78711-1440

For more information, visit our website

**Comptroller.Texas.Gov**

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in the provision of any services, programs or activities.

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document may be requested in alternative formats by calling  
the appropriate toll-free number listed at left, or by calling:

512-463-4600 in Austin  
512-475-0900 (FAX).